

Calendar No. 407

103D CONGRESS  
2D SESSION

S. 1969

A BILL

To amend the Worker Adjustment and Retraining  
Notification Act to minimize the adverse effects  
of employment dislocation, and for other  
purposes.

APRIL 11, 1994

Read the second time and placed on the calendar

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## IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, FEBRUARY 22), 1994

Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. SIMON, Ms. MIKULSKI, Mr. PELL, Mr. WELLSTONE, Mr. RIEGLE, and Mr. FEINGOLD) introduced the following bill; which was read the first time

APRIL 11, 1994

Read the second time and placed on the calendar

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## A BILL

To amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE AND REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Worker Adjustment and Retraining Notification Amend-  
6 ments Act”.

1 (b) REFERENCE.—Except as specifically provided  
2 otherwise, whenever in this Act an amendment or repeal  
3 is expressed in terms of an amendment to, or repeal of,  
4 a section or other provision, the reference shall be consid-  
5 ered to be made to a section or other provision of the  
6 Worker Adjustment and Retraining Notification Act (29  
7 U.S.C. 2101 et seq.).

8 **SEC. 2. DEFINITIONS.**

9 (a) EMPLOYER, PLANT CLOSING, AND MASS LAY-  
10 OFF.—Paragraphs (1) through (3) of section 2(a) (29  
11 U.S.C. 2101(a)(1)-(3)) are amended to read as follows:

12 “(1) the term ‘employer’ means any business  
13 enterprise that employs 50 or more employees;

14 “(2) the term ‘plant closing’ means—

15 “(A) the permanent or temporary shut-  
16 down of a single site of employment, or of one  
17 or more facilities or operating units within a  
18 single site of employment, which results in an  
19 employment loss at such site, during any 30-  
20 day period, for 25 or more employees; or

21 “(B) the permanent or temporary shut-  
22 down of one or more sites of employment, or of  
23 one or more facilities or operating units within  
24 such sites, which results in an employment loss,

1 during any 30-day period, for 100 or more  
2 employees.

3 “(3) the term ‘mass layoff’ means—

4 “(A) a reduction in force at a single site  
5 of employment which results in an employment  
6 loss at such site, during any 30-day period, for  
7 25 or more employees; or

8 “(B) a reduction in force which results in  
9 an employment loss, during any 30-day period,  
10 for 100 or more employees.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) NOTICE.—Section 3(d) (29 U.S.C. 2102(d))  
13 is amended by striking out “, each of which is less  
14 than the minimum number of employees specified in  
15 section 2(a) (2) or (3) but which in the aggregate  
16 exceed that minimum number,” and inserting in lieu  
17 thereof “which in the aggregate exceed the minimum  
18 number of employees specified in section 2(a) (2) or  
19 (3)”.

20 (2) DEFINITIONS.—Section 2(b)(1) (29 U.S.C.  
21 2101(b)(1)) is amended by striking “(other than a  
22 part-time employee)”.

23 (c) SECRETARY OF LABOR.—

1           (1) DEFINITION.—Paragraph (8) of section  
2           2(a) (29 U.S.C. 2101(a)(8)) is amended to read as  
3           follows:

4           “(8) the term ‘Secretary’ means the Secretary  
5           of Labor or a representative of the Secretary of  
6           Labor.”.

7           (2) REGULATIONS.—Section 8(a) (29 U.S.C.  
8           2107(a)) is amended by striking “of Labor”.

9   **SEC. 3. NOTICE.**

10          (a) PERIOD.—Section 3 (29 U.S.C. 2102) is amend-  
11          ed—

12               (1) in subsection (a), by striking “a 60-day pe-  
13               riod after” and inserting “the applicable notice pe-  
14               riod required after”;

15               (2) in subsection (b), by striking “60-day pe-  
16               riod” each place such term appears and inserting  
17               “notice period”;

18               (3) by redesignating subsections (b) through (d)  
19               as subsections (c) through (e), respectively; and

20               (4) by inserting after subsection (a), the follow-  
21               ing new subsection:

22               “(b) NOTICE PERIOD.—As used in this section, the  
23               term ‘notice period’ means—

1 “(1) in the case of a plant closing or mass lay-  
 2 off which results in an employment loss for at least  
 3 25 but not more than 49 employees, 30 days;

4 “(2) in the case of a plant closing or mass lay-  
 5 off which results in an employment loss for at least  
 6 50 but not more than 99 employees, 60 days; and

7 “(3) in the case of a plant closing or mass lay-  
 8 off which results in an employment loss for at least  
 9 100 employees, 90 days.”.

10 (b) CONFORMING AMENDMENT.—Section 5(a)(1) (29  
 11 U.S.C. 2104(a)(1)) is amended in the matter following  
 12 subparagraph (B), by striking “60 days” and inserting  
 13 “the applicable notice period”.

14 (c) RECIPIENT.—Section 3(a)(1) (29 U.S.C.  
 15 2102(a)(1)) is amended by striking “or, if there is no such  
 16 representative at that time, to each affected employee”  
 17 and inserting “and to each affected employee”.

18 **SEC. 4. ENFORCEMENT.**

19 (a) AMOUNT.—Section 5(a)(1) (29 U.S.C.  
 20 2104(a)(1)) is amended—

21 (1) in subparagraph (A)(ii), by striking “and”  
 22 at the end thereof;

23 (2) by redesignating subparagraph (B) as sub-  
 24 paragraph (D); and

1           (3) by inserting after subparagraph (A) the fol-  
2           lowing new subparagraphs:

3           “(B) interest on the amount described in sub-  
4           paragraph (A) calculated at the prevailing rate;

5           “(C) an additional amount as liquidated dam-  
6           ages equal to the sum of the amount described in  
7           subparagraph (A) and the interest described in sub-  
8           paragraph (B); and”.

9           (b) EXEMPTION.—Section 5(a)(4) (29 U.S.C.  
10 2104(a)(4)) is amended by striking “reduce the amount  
11 of the liability or penalty provided for in this section” and  
12 inserting “reduce the amount of the liability under sub-  
13 paragraph (C) of paragraph (1) and reduce the amount  
14 of the penalty provided for in paragraph (3)”.

15          (c) ADMINISTRATIVE COMPLAINT.—Section 5(a)(5)  
16 (29 U.S.C. 2104(a)(5)) is amended—

17           (1) by striking “may sue,” and inserting  
18           “may,”;

19           (2) by inserting after “both,” the following:  
20           “(A) file a complaint with the Secretary alleging a  
21           violation of section 3, or (B) bring suit”; and

22           (3) by adding at the end thereof the following  
23           new sentence: “A person seeking to enforce such li-  
24           ability may use one or both of the enforcement

1 mechanisms described in subparagraphs (A) and  
2 (B).”.

3 (d) ACTION BY THE SECRETARY.—Section 5 (29  
4 U.S.C. 2104) is amended—

5 (1) by redesignating subsection (b) as sub-  
6 section (d); and

7 (2) by inserting after subsection (a) the follow-  
8 ing new subsections:

9 “(b) ACTION BY THE SECRETARY.—

10 “(1) ADMINISTRATIVE ACTION.—The Secretary  
11 shall receive, investigate, and attempt to resolve  
12 complaints of violations of section 3 by an employer  
13 in the same manner that the Secretary receives, in-  
14 vestigates, and attempts to resolve complaints of vio-  
15 lations of sections 6 and 7 of the Fair Labor Stand-  
16 ards Act of 1938 (29 U.S.C. 206 and 207).

17 “(2) SUBPOENA POWERS.—For the purposes of  
18 any investigation provided for in this section, the  
19 Secretary shall have the subpoena authority provided  
20 for under section 9 of the Fair Labor Standards Act  
21 of 1938 (29 U.S.C. 209).

22 “(3) CIVIL ACTION.—The Secretary may bring  
23 an action in any court of competent jurisdiction to  
24 recover on behalf of an employee the back pay, inter-



1 est, benefits, and liquidated damages described in  
2 subsection (a)(1).

3 “(4) SUMS RECOVERED.—Any sums recovered  
4 by the Secretary on behalf of an employee under  
5 subparagraphs (A), (B), and (D) of section 5(a)(1)  
6 shall be held in a special deposit account and shall  
7 be paid, on order of the Secretary, directly to each  
8 employee affected. Any such sums not paid to an  
9 employee because of inability to do so within a pe-  
10 riod of 3 years, and any sums recovered by the Sec-  
11 retary under subparagraph (C) of section 5(a)(1),  
12 shall be credited as an offsetting collection to the ap-  
13 propriations account of the Secretary of Labor for  
14 expenses for the administration of this Act and shall  
15 remain available to the Secretary until expended.

16 “(5) ACTION TO COMPEL RELIEF BY SEC-  
17 RETARY.—The district courts of the United States  
18 shall have jurisdiction, for cause shown, over an ac-  
19 tion brought by the Secretary to restrain the with-  
20 holding of payment of back pay, interest, benefits, or  
21 other compensation, plus interest, found by the court  
22 to be due to employees under this Act.

23 “(c) LIMITATIONS PERIOD.—

24 “(1) IN GENERAL.—An action may be brought  
25 under this section not later than 2 years after the

1 date of the last event constituting the alleged viola-  
 2 tion for which the action is brought.

3 “(2) COMMENCEMENT.—In determining when  
 4 an action is commenced under this section for the  
 5 purposes of paragraph (1), it shall be considered to  
 6 be commenced on the date on which the complaint  
 7 is filed.”.

8 **SEC. 5. POSTING OF NOTICES; PENALTIES.**

9 The Act (29 U.S.C. 2101 et seq.) is amended by add-  
 10 ing at the end thereof the following new section:

11 **“SEC. 11. POSTING OF NOTICES; PENALTIES.**

12 “(a) POSTING OF NOTICES.—Each employer shall  
 13 post and keep posted in conspicuous places upon its prem-  
 14 ises where notices to employees are customarily posted a  
 15 notice to be prepared or approved by the Secretary of  
 16 Labor setting forth excerpts from, or summaries of, the  
 17 pertinent provisions of this chapter and information perti-  
 18 nent to the filing of a complaint.

19 “(b) PENALTIES.—A willful violation of this section  
 20 shall be punishable by a fine of not more than \$100 for  
 21 each separate offense.”.

22 **SEC. 6. EFFECTIVE DATE.**

23 This Act, and the amendments made by this Act,  
 24 shall take effect on the date of the enactment of this Act.